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13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF NEVADA**

15 **SHYLAH BERRY,**

16 **Plaintiff,**

Case No:

17 **vs.**

COMPLAINT

18 **FINANCIAL RECOVERY SERVICES, INC.,**

19 **Defendant.**

20 Shylah Berry, by and through her counsel of record, Cogburn Law Offices, hereby
21 complains against Defendant Financial Recovery Services, Inc., as follows:

22 **I. INTRODUCTION**

23 1. This is an action for damages brought by an individual consumer for Defendant's
24 violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter
25 "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair
26 practices. Plaintiff further alleges a claim for invasion of privacy ancillary to Defendant's
27 collection efforts.

28 **II. JURISDICTION**

29 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d). Venue is proper in
30 this District Court, particularly its unofficial southern district, pursuant to 28 U.S.C. § 1391(b).

III. PARTIES

31 3. Plaintiff Shylah Berry, is a natural person residing in Clark County, Nevada.

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1 4. Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. § 1692a(3).

2 5. Defendant Financial Recovery Services, Inc., is a corporation engaged in the
3 business of collecting debts by use of the mails and telephone, and Defendant regularly attempts
4 to collect debts alleged to be due another.

5 6. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6)
6 trying to collect a "debt" as defined by 15 U.S.C. §1692(a)(5).

7 **IV. FACTUAL ALLEGATIONS**

8 7. At various and multiple times prior to the filing of the instant complaint, including
9 within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an
10 attempt to collect an alleged outstanding debt. Defendant's conduct violated the FDCPA in
11 multiple ways, including but not limited to:

- 12 A. Communicating with the debtor at places known to be inconvenient to my
13 client, including his place of employment despite being repeatedly told to
14 stop (§1692c(a)(1&3));
- 15 B. Engaging in conduct of which the natural consequence is to harass,
16 oppress, or abuse, including using profanity and causing my client's
17 telephone to ring with intent to annoy, abuse, or harass (§1692d(2)(5));
- 18 C. Communicating with persons other than the Plaintiff for purposes other
19 than to locate Plaintiff and communicating specific information about the
20 debt owed (§1692b(1 &3));
- 21 D. Failing to register and obtain a license with the State of Nevada to perform
22 collection activities as required by N.R.S. § 649.075.

23 8. Defendant's aforementioned violations of the FDCPA also constitute an invasion
24 of Plaintiff's right to privacy, causing injury to Plaintiff's feelings, mental anguish and distress.

25 9. Defendant's aforementioned violations of the FDCPA also constitute an
26 intentional intrusion into Plaintiff's private places and into private matters of Plaintiff's life,
27 conducted in a manner highly offensive to a reasonable person. With respect to these activities
28

1 of Defendant, Plaintiff had a subjective expectation of privacy that was objectively reasonable
2 under the circumstances.

3 **COUNT I: VIOLATION OF FAIR DEBT**
4 **COLLECTION PRACTICES ACT**

5 10. Plaintiff reincorporates by reference all of the preceding paragraphs.

6 11. As a direct and proximate cause of the acts described above, Plaintiff has
7 sustained and suffered damages.

8 12. The Defendant's conduct as alleged herein was willful, intentional, oppressive,
9 fraudulent, malicious, and done in reckless disregard of the safety rights of Plaintiff, thereby
10 warranting the imposition of punitive damages.

11 13. Plaintiff has been forced to retain the services of legal counsel, and Plaintiff is
12 entitled to an award of reasonable attorneys' fees.

13 **COUNT II: COMMON LAW INVASION OF PRIVACY BY INTRUSION**

14 14. Plaintiff reincorporates by reference all of the preceding paragraphs.

15 15. As a direct and proximate cause of the acts described above, Plaintiff has
16 sustained and suffered damages.

17 16. The Defendant's conduct as alleged herein was willful, intentional, oppressive,
18 fraudulent, malicious, and done in reckless disregard of the safety rights of Plaintiff, thereby
19 warranting the imposition of punitive damages.

20 17. Plaintiff has been forced to retain the services of legal counsel, and Plaintiff is
21 entitled to an award of reasonable attorneys' fees.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff respectfully prays that judgment be entered against the
24 Defendant, on all counts, for the following:

25 1. Declaratory judgment that Defendant's conduct violated the FDCPA;
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27
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2. Actual damages;
3. Statutory damages;
4. Punitive damages;
5. Costs and reasonable attorney's fees; and,
6. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

DATED this 16 day of June 2010.

COGBURN LAW OFFICES

By: 

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